IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4237 OF 2006

Kashinath Govindrao More .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Naveen Chomal for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 11th December 2006

P.C.

. Applicant is apprehending arrest in connection with C.R.No.271 of 2006 registered by Panchavati Police station. The offences alleged

are punishable under section 420, 406, 408, 409 read with 34 I.P.C.

2. Applicant applied for anticipatory bail. The applicant was enlarged on interim anticipatory bail. Pursuant thereto, applicant was attending Panchavati police station. On 13th November 2006 Additional Sessions Judge, Nashik dismissed applicant's application for anticipatory bail. Applicant states that the questionaire which was handed in during the course of attendance has been satisfactorily answered. The ingredients of section 438 are satisfied. Further custodial interrogation is unnecessary. The entire case is based upon the documents. Applicant was one of the Directors. In any event as a borrower, he had availed of loan/advances which amount has been repaid fully with interest. In these peculiar circumstances, the applicant deserves to be protected.

3. This application is opposed by the learned A.P.P. on the basis that the auditor's report discloses that the present applicant, as one of the Directors, was involved in sanctioning or disbursing of loans. It is not as if the applicant alone being the borrower and his dues having been cleared that he can escape criminal liabilities. The original complainant, through, Mr.Shinde states that the depositors are left high and dry. Merely because some of the applicants are willing to repay their dues does not mean that they are completely absolved. The custodial interrogation is necessary to ascertain as to whether the applicant sanctioned and disburse the loans to his relations; whether such decisions were taken in accordance with prevalent norms and policies and whether security documents were obtained and appropriate safeguards and conditions imposed for due repayment. Therefore, for all such disbursement the applicant is liable and he should not be

granted anticipatory bail.

4. The misappropriation is for a period from 1st April 1992 to 30th September 2005 and the amount involved is more than Rs.3.50 Crores.

5. Having perused the application and annexures thereto, including orders passed by the Additional Sessions Judge so also role attributed to the applicant, I am of the view that custodial interrogation insofar as present applicant is concerned, is not necessary. He has already attended the concerned police station and replied to the questionnaire. His statement of account and documents pertaining thereto are already in custody of the Auditor. On the basis of replies to the questionnaire, further questioning can always be done. However, it does not appear to me that custodial interrogation of the applicant is necessary. His application, therefore, can be granted by imposing appropriate

conditions. More so, when the Board is superseded and the Administrator has been appointed. All books of accounts including the proceedings and minutes of the meetings of Board of Directors have also been seized. Following order would, therefore, sub-serve the ends of justice.

i) In the event of the arrest of the applicant in connection with C.R.No.271 of 2006 registered with Panchavati Police Station, the applicant shall be enlarged on bail in the sum of Rs.50,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant to forthwith surrender his passport, if any, to the I.O. Applicant shall not leave Nashik city without prior permission of trial court. The applicant shall report to

E.O.W.Crime Branch, Nashik once a week on every Monday between 11.00 a.m. and 1.00 p.m. till the charge sheet is filed and thereafter as directed by the trial court till conclusion of trial.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on

the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)